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March 30, 2004

## FILED ELECTRONICALLY

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: *Provision of Directory Listing Information Under the Communications Act of 1934, As Amended*, CC Docket No. 99-273  
*Ex Parte Communication*

Dear Ms. Dortch:

The Commission is currently considering the pending SBC/BellSouth Petition for Clarification or Reconsideration of the Commission's First Report and Order in the above-referenced proceeding.<sup>1</sup> In this regard, InfoNXX, Inc. (InfoNXX) has asked the Commission to affirm that local exchange carriers (ILECs) must include complete subscriber information for nonpublished numbers in the directory assistance (DA) databases that they provide to non-ILEC DA providers.

The SBC/BellSouth Petition suggests that SBC and BellSouth (and perhaps other ILECs) now limit or may seek to limit the disclosure or use of nonpublished subscriber information. Specifically, the SBC/BellSouth Petition states that ILECs generally provide non-ILEC DA providers with names and addresses, but not telephone numbers, of subscribers with nonpublished numbers.<sup>2</sup> SBC/BellSouth then ask the Commission to order that ILECs may restrict the use of these or any other DA listings "to safeguard their customer's privacy interests."<sup>3</sup>

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<sup>1</sup> Petition for Clarification or, in the Alternative, Reconsideration of SBC Communications, Inc. and BellSouth Corporation, CC Docket No. 99-273 (Mar. 23, 2001) (SBC/BellSouth Petition).

<sup>2</sup> SBC/BellSouth Petition at 6 & n.11.

<sup>3</sup> SBC/BellSouth Petition at 6. SBC and BellSouth insisted in their Joint Reply to Oppositions to the SBC/BellSouth Petition that they do not seek to deny access to nonpublished information in

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The attached Affidavit of Margaret Scholl, CEO North America of InfoNXX, explains why non-ILEC DA providers need access to *all* the nonpublished information available to ILEC DA operators. If the Commission allows ILECs to limit the amount of subscriber information they disclose to independent DA providers or to impose unilateral restrictions on the use of that information, independent DA providers will be unable to offer their wholesale customers DA services that are comparable to those available from the ILEC. This will harm consumers by undermining the fledgling competition that has emerged in the wholesale DA market.

Accordingly, InfoNXX urges the Commission to deny the SBC/BellSouth Petition and to affirm that (1) ILECs must provide non-ILEC DA providers with *all* subscriber information in their DA databases; (2) ILECs may not impose use restrictions on non-ILEC DA providers which differ from the restrictions applicable to the ILECs' own DA operations; and (3) state regulators should be responsible for determining DA use restrictions and should not impose any restrictions that prevent the use of DA listings to provide DA-related information services.

Please address any questions to the undersigned.

Sincerely,



Gerard J. Waldron  
Mary Newcomer Williams  
*Attorneys for InfoNXX, Inc.*

Attachment

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(continued...)

their DA listings. However, SBC/BellSouth admit that telephone numbers customarily are excluded from nonpublished listings and that addresses sometimes are excluded from nonpublished listings. Joint Reply to Oppositions to Petition for Clarification or, in the Alternative, Reconsideration of SBC Communications, Inc. and BellSouth Corporation, CC Docket No. 99-273 at 7-8 (May 15, 2001) (SBC/BellSouth Reply).

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cc: Mr. William Maher  
Ms. Michelle Carey  
Mr. William Dever  
Mr. Rodney McDonald  
Mr. Christopher Libertelli  
Mr. Matthew Brill  
Ms. Jessica Rosenworcel  
Mr. Daniel Gonzalez  
Mr. Scott Bergmann

March 29, 2004

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Provision of Directory Listing Information	)	
Under the Communications Act of 1934,	)	CC Docket No. 99-273
As Amended	)	

**AFFIDAVIT OF MARGARET SCHOLL**

1. My name is Margaret Scholl. I am Chief Executive Officer of North America for InfoNXX, Inc. ("InfoNXX"). I have held this position since October 2003. Prior to becoming CEO North America, I served as InfoNXX's Vice President of Finance from June 1996 and was involved in most aspects of the company's business. Before joining InfoNXX, I worked in public accounting for seven years.

2. I received a Bachelor of Business Administration degree in Accounting from Temple University in 1989. I am a member of the Pennsylvania Institute of Certified Public Accountants and a member of Financial Executives International.

3. In my capacity as CEO North America, I am responsible for managing all aspects of InfoNXX's North American directory assistance (DA) business, including developing and implementing corporate strategy, assessing new opportunities, ensuring customer satisfaction, and fostering relationships with lenders, shareholders, customers, employees, and vendors.

4. Since its founding in 1992, InfoNXX has grown from three employees to more than 5,000 employees in North America alone, where InfoNXX is a major provider of wholesale and enterprise directory assistance services. InfoNXX is currently the largest wholesale provider

of directory assistance services (including enhanced services) to the wireless industry. Wireless customers appreciate the high-quality, enhanced DA services InfoNXX provides (including free call completion, category and “yellow page” searches, turn-by-turn driving directions, SMS/Text Messaging of directory information, and information services including movie listings and show times, event information, and weather, sports and stock reports), and InfoNXX’s wireless call volume has grown by tens of millions of calls over the past several years.

5. InfoNXX also provides DA service on a wholesale basis to select competitive local exchange carriers (CLECs), cable telephony providers, payphone providers, and an interexchange carrier. InfoNXX provides retail DA service on a high-volume basis to several large corporate users.

6. InfoNXX has effectively managed its rapid growth in DA call volume over the past decade to maintain high levels of customer satisfaction. For example, although InfoNXX experienced a 66% increase in call volume and added 2,600 new employees during 2003, InfoNXX ranked second in Customer Fulfillment and second in Customer Care among non-ILEC DA providers in the independent Paisley Research Group September 2003 NDA Performance Index.<sup>1</sup>

7. InfoNXX’s success in achieving customer satisfaction is due in part to the comprehensive listings database that InfoNXX maintains to ensure the accuracy and reliability of the numbers it provides. A significant portion of the listings in that database are derived from

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<sup>1</sup> The Paisley Research Group National Directory Assistance (NDA) Performance Index is the only tool currently available that allows DA providers to track and gauge their performance quality against other DA providers. A DA provider’s Customer Fulfillment score reflects both data accuracy and the operator’s ability to find the correct listing. Customer Care looks at (1) the extent to which the operator leaves the customer with the impression that the operator was engaged on the customer’s behalf and (2) the operator’s call handling efficiency (*i.e.* the extent to which the operator follows prescribed search procedures).

the incumbent local exchange carrier (ILEC) listings databases developed and updated as the ILECs assign, reclaim, and reassign numbers to and from their local exchange customers.

8. My experience has shown me that, in the DA business, the key to customer satisfaction is providing a meaningful response to each customer's request. Customers can accept that a number is unlisted or unpublished, but they become frustrated when told that a requested listing cannot be located or identified. Accordingly, it is essential that the ILEC listings data provided to InfoNXX and other DA providers include all the information the ILECs make available to their own DA operators. That information includes the name, address, and telephone number (whether masked or not) of subscribers with unlisted or unpublished numbers.

9. Ensuring access to subscriber information for unlisted and unpublished numbers will promote fair competition in the wholesale DA market by allowing non-ILEC DA providers to offer their callers the same information and services provided by the ILECs. That is, all DA operators could clearly identify the subscriber associated with a caller's request and confidently inform the caller that the requested number is unpublished. With access to unpublished numbers, DA operators also could relay a message to an unpublished subscriber in the event of an emergency. ILECs currently provide these services to their DA callers. The ILECs should not be allowed to use their monopoly control over subscriber listing information to prevent other DA providers from offering the same services to their own customers.

10. This issue has a meaningful impact on InfoNXX's business. A review of InfoNXX's database shows that approximately sixteen percent (16%) of listings are unpublished. InfoNXX now usually receives only the subscriber name (no address or telephone number information) for these unpublished numbers. Call statistics indicate that approximately one-half of one percent (.5%) of DA callers per month are informed that the requested number is

unpublished; about two percent (2%) of callers per month receive a response of “no number found.” Many of these “no number found” calls could be caused by unpublished numbers lacking an associated address. This is because when a subscriber name is not associated with an address, a DA operator is unable to distinguish the listing from other listings with the same subscriber name. Under those circumstances, the operator usually concludes that the number (or published/unpublished status) cannot be found.

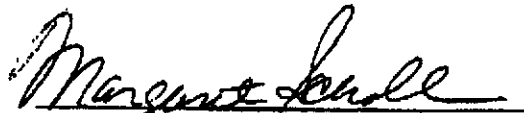
11. If InfoNXX received complete subscriber information (including addresses) for unpublished numbers, it likely could shift a substantial number of “no number found” calls to “requested unpublished number” status. As noted above, this would improve customer satisfaction by providing callers with a meaningful response that they can understand and accept.

12. If ILECs were permitted to limit disclosure of subscriber information, InfoNXX would be forced to rely more on listing information compiled by non-ILEC third parties. Those third-party lists could include unpublished numbers without the unpublished designation contained in the ILEC database. This would result in telephone subscribers receiving *less* privacy protection than if ILECs provided competitive DA providers with complete subscriber information (including the unpublished designation) for subscribers with unpublished numbers.

13. In sum, requiring ILECs to provide non-ILEC DA providers with complete subscriber information (including name, address and telephone number) for unpublished numbers would serve the public interest by encouraging competition in the wholesale DA

market, improving the quality of competitive DA services, and protecting the privacy of subscribers with unpublished numbers.

I, Margaret Scholl, declare and affirm under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

  
Margaret Scholl

Executed this 29<sup>th</sup> day of March, 2004.